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**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

**Order Instituting Rulemaking to Consider
Regulating Telecommunications Services
Used by Incarcerated People**

Rulemaking 20-10-002

**MOTION OF THE PRISON POLICY INITIATIVE, INC.
TO COMPEL GLOBAL TEL*LINK TO RESPOND TO DATA REQUESTS**

Peter Wagner
Executive Director
Prison Policy Initiative, Inc.
P.O. Box 127
Northampton, MA 01060
(413) 527-0845
pwagner@prisonpolicy.org

Dated: March 18, 2021

**BEFORE THE PUBLIC UTILITIES COMMISSION
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TO COMPEL GLOBAL TEL*LINK TO RESPOND TO DATA REQUESTS**

I. Introduction

Pursuant to Rule 11.3 of the California Public Utility Commission’s Rules of Practice and Procedure, Prison Policy Initiative, Inc. (“PPI”) moves to compel responses and document production from Global Tel*Link (“GTL”) with respect to Requests 1, 2, and 6 (collectively, the “Requests”) of PPI’s First Data Request to Global Tel*Link Corp (the “FDR”), which was served on GTL on February 3, 2021. These three specific Requests are squarely within the scope of this proceeding as described in the Assigned Commissioner’s Scoping Memo and Ruling (Jan. 12, 2021), and are reasonably tailored to obtain relevant information that will help the Commission in weighing some of the matters at issue. As relevant here, GTL’s objections raise two separate issues, which are addressed below, in turn.

II. Compliance with Rule 11.3(a)

PPI has diligently discharged its duty to meet and confer in a good faith effort to informally resolve this dispute, but our efforts have not been successful. As explained in the attached declaration, PPI attorneys met with GTL’s outside counsel on February 26, 2021, and discussed the GTL’s objections to the FDR. Declaration of Stephen A. Raher ¶ 7. During this conference, representatives of GTL and PPI both explained their respective positions with respect to Requests 1 and 2 of the FDR. *Id.* Following the conference, PPI has conducted further legal research based on GTL’s explanation of its objection. *Id.* ¶ 10. PPI called GTL’s counsel again on March 15, 2021 in an attempt to resolve the parties’ dispute. *Id.* ¶ 13. During

the March 15 call, PPI specifically informed GTL’s counsel that PPI would file a motion to compel if the parties were not able to resolve their disagreements. *Id.* ¶ 14.

In addition, at the February 26 conference, GTL confirmed that it would not produce documents to PPI that arose out of the Federal Communication Commission (“FCC”) proceeding *In the Matter of Rates for Interstate Inmate Calling Services* (Wireline Competition Bureau Docket Number 12-375), unless PPI complied with the FCC’s protective order entered in that proceeding. *Raher Decl.* ¶ 12. During the March 15 call, PPI further informed GTL’s counsel that PPI found this requirement to be objectionable, and would include this issue in a motion to compel. *Id.* ¶¶ 13-14.

Despite PPI’s good-faith efforts to resolve these disputes, GTL has not expressed any willingness to revisit its objections to the Requests. Accordingly, PPI reluctantly seeks an order from the Commission overruling the objections discussed herein.

III. PPI’s Requests for Information on GTL’s Payment-Processing Costs are Relevant to this Proceeding

On January 12, 2021, Assigned Commissioner Martha Guzman Aceves entered a Scoping Memo and Ruling (the “Scoping Memo”) setting forth the framework for this proceeding. The Scoping Memo begins by reaffirming the Commission’s interest in “ensur[ing] that incarcerated people in California pay just and reasonable rates for intrastate calling services, under just and reasonable terms and conditions.” *Scoping Mem.* at 1. The Memo reviews existing federal regulations, including limits on ancillary fees. *Id.* at 11-14. Federal law prohibits carriers from charging ancillary fees other than those defined in 47 C.F.R. § 64.6000(a). Allowed ancillary fees are capped at amounts that are designed to cover carriers’ costs of processing customer payments, including fees for automated payments, live payments, and single-call products. *Id.* § 64.6000(a)(1), (2), and (3).

In summarizing the scope of this proceeding, Commissioner Aceves notes that the “proceeding will undertake discovery on the *costs of the provision* of inmate communication services, including the rates *and ancillary or additional fees* charged.” *Scoping Mem.* at 15

(emphasis added). Consistent with this scope, PPI sought information from various carriers, including GTL, concerning their costs of processing credit- and debit-card payments. *See* *Raher Decl.* ¶ 4 and Exh. 1 at 3 (Requests 1 and 2). GTL responded by raising a host of objections. *Id.*, Exh. 2 at 2-4. PPI and GTL have subsequently executed a non-disclosure agreement, thus GTL’s objections based on protection of confidential information are now moot. *Raher Decl.* ¶ 8. Based on the parties’ discussion at a February 26, 2021 discovery conference, it appears that GTL’s only real objection to Requests 1 and 2 is that the company believes the Commission lacks jurisdiction to regulate ancillary fees. *Id.* ¶ 7. The only authority that GTL has cited in support of its argument is the FCC’s Report and Order on Remand and Fourth Further Notice of Proposed Rulemaking (the “Remand R&O”)¹ entered in WC Docket 12-375 on August 7, 2020. *Id.* ¶¶ 7 and 10. GTL’s counsel has specifically referenced the FCC’s invocation of the “mixed jurisdiction” doctrine, but any reasonable reading of the Remand R&O reveals that GTL materially mischaracterizes the FCC’s ruling.

As background, the Remand R&O arose out of a judicial ruling that invalidated many of the FCC’s attempts to regulate intrastate rates and practices in the inmate communications services (“ICS”) industry. Remand R&O ¶¶ 15. On remand, the FCC has taken a general approach of letting states set per-minute ICS rates for intrastate calls; however, with respect to ancillary fees, the Remand R&O considered and invoked the doctrine of mixed jurisdiction, which allows the FCC to regulate intrastate telecommunications where the relevant services involve inter- and intrastate aspects and “it is impossible or impractical to separate the service’s intrastate from interstate components.” *Id.* ¶ 31.

Based on GTL’s positions espoused at the February 26 discovery conference with PPI, GTL appears to be arguing that the FCC’s invocation of the mixed jurisdiction doctrine has completely displaced the Commission’s power to regulate ICS ancillary fees. This argument lacks merit given two substantial caveats contained in the FCC’s ruling. First, the FCC

¹ Available at <https://www.fcc.gov/ecfs/filing/0807919827999>.

acknowledges that certain ancillary fees (including post-call payment fees and single-call fees) *are* readily categorized as inter- or intrastate, and therefore are not subject to the mixed jurisdiction doctrine. Remand R&O ¶¶ 34 and 37. Since both post-call payment fees and single-call fees are designed to cover a carrier’s card-processing costs, GTL’s cost of accepting payment cards is entirely relevant to this proceeding, in which the Commission may limit or otherwise regulate these types of intrastate fees.

Second, when invoking the doctrine of mixed jurisdiction, the FCC described its action as setting a “ceiling” for ancillary fees, but it expressly allows states to set lower limits on such fees. Remand R&O ¶ 47 (“[T]o the extent a state allows or requires an inmate calling services provider to impose fees lower than those contained in our rules, that state law or requirement is not preempted by our action here.”).

Given the nature of the FCC’s ruling on mixed jurisdiction, the Commission has ample authority to regulate ancillary fees associated with ICS carriers’ California operations. Part of this proceeding should include an examination of the carriers’ ancillary payment fees, and that examination must include a review of the carriers’ costs of processing payment-card transactions. With this in mind, Requests 1 and 2 in the FDR are reasonably calculated to lead to the discovery of admissible evidence. Even if GTL intends to contest the Commission’s authority, its theories of limited jurisdiction should be decided as part of the substantive phase of this proceeding and should not prevent PPI from obtaining reasonable discovery at this early stage.

IV. GTL’s Demand that PPI Execute an FCC Protective Order is Unreasonable

As is common practice, PPI’s FDR included a request (Request 6) for copies of GTL’s responses to data requests propounded by other parties or the Public Advocate’s Office (“PAO”). *Raher Decl.*, Exh. 1 at 4. According to GTL’s response, the majority of information it produced in response to the PAO’s data request “is itself subject to an existing protecting order established by the Federal Communications Commission in WC Docket No. 12-375.” *Id.*, Exh. 2 at 8.

When PPI and GTL conducted a discovery conference on February 26, GTL’s counsel stated that

GTL would not produce confidential information arising from the FCC proceeding unless PPI complied with the FCC's protective order. *Id.* ¶ 12. Out of a desire to cooperate with GTL, PPI was initially receptive to this proposal, but upon further research we have determined that GTL's suggested procedure is untenable. PPI subsequently informed GTL's counsel that we did not believe we could comply with GTL's demand, but we welcomed an opportunity to resolve the dispute. *Id.* ¶ 13.

To be clear, PPI has no problem complying with procedures that are designed to protect GTL's *bona fide* confidential and proprietary information. To this end, PPI has executed a non-disclosure agreement that protects GTL's interests. *Raher Decl.* ¶ 8. In reliance on that non-disclosure agreement, GTL has already provided PPI with confidential information. *Id.* ¶ 9. However, GTL's additional demands with regards to the FCC protective order are unreasonable.

The FCC protective order requires parties that wish to receive confidential carrier information to complete and file an "[a]cknowledgment agreeing to be bound by the terms and conditions of the Protective Order." *In the Matter of Rates for Interstate Inmate Calling Services*, WC Dkt. No. 12-375, Protective Order ¶ 5 (Dec. 19, 2013). Among other things, the Protective Order prohibits receiving parties from using confidential information for any purpose other than participation in the FCC's proceeding. Receiving parties are specifically prohibited from using confidential information "in any other administrative, regulatory or judicial proceeding." *Id.* ¶ 7. Accordingly, if PPI were to receive GTL's confidential information pursuant to the terms of the FCC protective order, we would be unable to use that data for its intended purpose, i.e., preparing for briefing and hearings in this California proceeding.

PPI respectfully suggests that the existing non-disclosure agreement it has executed with GTL is sufficient to protect GTL's interests, and compliance with the FCC protective order is neither required nor reasonable. PPI informed GTL's counsel of this position in a phone call on March 15, but GTL has not responded. *Raher Decl.* ¶ 13.

V. Conclusion

The Commission convened this proceeding to address a pressing need: unfair practices by ICS carriers. While PPI welcomes the opportunity to debate the merits of GTL's arguments at a later time, the company's attempts to thwart PPI's reasonable discovery requests comes as an unwelcome and seemingly dilatory development. PPI remains committed to resolving reasonable disputes concerning proportionality, burden and overbreadth, but so far GTL has not raised these issues except as boilerplate objections included in their response to PPI's FDR. Instead, GTL has simply refused to produce three different categories of documents, citing only its own untenable interpretations of federal law. PPI's repeated attempts to negotiate in good faith have been met with intransigence and silence on GTL's part. Pursuant to Commission Rule 11.3(a), PPI attaches a proposed order to this motion. We respectfully asks that the Commission overrule GTL's objections and order production of documents responsive to Requests 1, 2, and 6 of the FDR.

Dated: March 18, 2021

Respectfully submitted,

/s/ Peter Wagner
Peter Wagner
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Prison Policy Initiative, Inc.
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**BEFORE THE PUBLIC UTILITIES COMMISSION
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DECLARATION OF STEPHEN A. RAHER

I, Stephen A. Raher, declare as follows:

1. I am an attorney (admitted in the states of Oregon and Washington) and a volunteer with the Prison Policy Initiative, Inc. (“PPI”). I am over the age of eighteen, and I make the following declaration based on my own personal knowledge. If called upon to testify concerning the matters expressed herein, I could and would competently do so under oath.
2. I am coordinating PPI’s discovery and data analysis in connection with the above-captioned proceeding before the California Public Utilities Commission (the “Commission”).
3. Pursuant to the Assigned Commissioner’s Scoping Memo and Ruling (entered on January 12, 2021), and Rule 10.1 of the Commission’s Rules of Practice and Procedure, PPI served a First Data Request (“FDR”) on party Global Tel*Link (“GTL”) on February 3, 2021. The FDR contains six specific requests seeking various categories of information from GTL. A true and correct copy of the FDR is attached hereto as **Exhibit 1**.
4. The FDR contains six individual data requests, including the following:
 - a. Request 1 seeks GTL’s contracts with payment processors. *See* Exh. 1 at 3.
 - b. Request 2 seeks information regarding amounts that GTL has paid payment processors in the last 24 months. *Id.*
 - c. Request 6 seeks copies of any documents that GTL has produced in response to discovery requests from other parties in this proceeding. *Id.* at 4.

5. GTL responded to the FDR on February 12, 2021. A true and correct copy of GTL's response is attached hereto as **Exhibit 2**.

6. In response to Requests 1 and 2, GTL raises numerous objections. *See* Exh. 2 at 2-4.

7. On February 26, 2021, PPI attorney Ginger Jackson-Gleich and I met via teleconference with GTL's outside counsel Chérie Kiser and Matthew Conaty. During this conference, I asked for more detail regarding GTL's objections to Requests 1 and 2. Ms. Kiser responded that payment fees are not relevant to the Commission's proceeding because the Federal Communications Commission ("FCC") has asserted complete authority over ancillary fees charged by inmate communications service carriers under the doctrine of "mixed jurisdiction," and therefore the Commission has no power to regulate such fees. When I asked Ms. Kiser for the date of the FCC's order on this topic, she stated that the order was issued in August 2020. Ms. Kiser further confirmed that GTL objects to producing any documents in response to Prison Policy Initiative's Requests 1 and 2. I briefly explained why PPI disagrees with GTL's position, but stated that I would research this issue before filing a motion to compel production.

8. On March 3, 2021, GTL and PPI jointly executed a Non-Disclosure and Use of Information Agreement designed to protect confidential information that GTL produces to PPI as part of the discovery process in this proceeding.

9. On March 8, 2021, GTL produced documents in response to the FDR. None of the documents contained in this production are responsive to Requests 1 or 2.

10. I personally searched the FCC's "Electronic Comment Filing System" for any inmate communication services rulings issued in August 2020. The only relevant document I discovered was the FCC's Report and Order on Remand and Fourth Further Notice of Proposed Rulemaking (the "Remand R&O").¹

¹ Available at <https://www.fcc.gov/ecfs/filing/0807919827999>.

11. GTL responded to Request 6 by, among other things, noting that it would not produce any data that has been produced in connection with the FCC's proceeding on inmate communications services (WC Dkt. No 12-375) unless PPI complied with the terms of the FCC's protective order entered on December 19, 2013 (the "FCC Protective Order").²

12. During the February 26, 2021 conference, Ms. Kiser confirmed that, to the extent that any information responsive to the Request 6 arose from FCC WC Docket No. 12-375, GTL will not produce it to PPI unless our organization follows the procedure prescribed in the FCC Protective Order.

13. On March 15, 2021, I called Ms. Kiser to again confer about discovery issues. During this phone call, I specifically informed Ms. Kiser that PPI intended to file a motion to compel production of documents in response to Requests 1 and 2, but we would welcome the opportunity to mutually resolve our disagreement with GTL. I also informed Ms. Kiser that PPI is unable to comply with the FCC Protective Order in connection with Request 6 because the certifications required by the FCC would render PPI unable to use GTL's confidential data in connection with a California Commission proceeding. I further stated that if we filed a motion to compel production, that motion would also address GTL's demands regarding Request 6.

14. At the conclusion of the March 15, 2021 phone call I informed Ms. Kiser that PPI would proceed with a motion to compel unless I received a response by the close of business on March 16, 2021.

15. As of the date of this declaration, I have received no further communications from Ms. Kiser or any other GTL employee following the phone call of March 15.

I certify under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date: March 18, 2021

/s/ Stephen A. Raher

Stephen A. Raher

² Available at <https://docs.fcc.gov/public/attachments/DA-13-2434A1.pdf>.

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Rulemaking 20-10-002

**THE PRISON POLICY INITIATIVE, INC.
FIRST DATA REQUEST TO GLOBAL TEL*LINK CORP.**

Peter Wagner, MA Bar No. 662207
Ginger Jackson-Gleich, CA Bar No. 324454
Prison Policy Initiative, Inc.
P.O. Box 127
Northampton, MA 01060
(413) 527-0845

Date: February 3, 2021

Prison Policy Initiative, Inc. (“PPI”), a party to the above-captioned proceeding, hereby requests that party Global Tel*Link Corp. (“GTL”) produce the documents and information described herein, in accordance with Public Utility Commission Rule of Procedure 10.1.

DEFINITIONS

As used in this request, the subsequent terms are assigned the following meanings:

1. “All” includes and encompasses the words “each” and “any.”
2. “Contract” means any agreement establishing the terms for the provision of goods or services for compensation, including any subsequent amendments and any documents incorporated by reference.
3. “Correctional facility” means any prison, correctional facility, psychiatric hospital, detention center, jail, holding center, or similar facility located in California, whether operated by a private entity or a federal, state, local, or tribal government agency.
4. “End-user” means a person, other than a correctional facility, that uses GTL’s networks, platforms, or technology to transmit or receive voice, text, video, or other communications.
5. “Document” includes, regardless of form, all manner of writings, drawings, graphs, charts, photographs, sound recordings, images, and any other data or data compilations from which information can be obtained and translated, whether tangible or intangible. “Document” includes electronically stored information and is not limited in any way with respect to medium, embodiment, process of creation, generation, or reproduction. “Document” includes all preliminary, intermediate, and final versions thereof, as well as any notations or comments appearing thereon or therein.
6. “GTL” means Global Tel*Link and any affiliate or subsidiary thereof, including TouchPay Holdings, LLC; Telmate; Public Communications Services, Inc.; and Value-Added Communications, Inc.
7. “Includes” and “including” are not limiting.
8. “Relating to” or “related to” means consisting of, identifying, concerning, referring to, alluding to, responding to, in connection with, commenting on, in response to, about, regarding, explaining, discussing, showing, describing, studying, reflecting, analyzing, or constituting.

INSTRUCTIONS

1. Every request herein is continuing in nature so that you shall produce any additional or more current information that comes to your attention after your initial responses have been sent, but to the time of a final evidentiary hearing or settlement.
2. Please respond to each request by reiterating the text of the specific request to which the carrier is responding. Please answer each request separately and in the order that it is asked. The number of answers should correspond to the number of requests contained herein.

3. Provide your response to each request as it becomes available, but no later than 10 business days from the date of service reflected below.

4. If you are unable to provide the information by the due date, if you have an objection to any request, or if you plan to assert a privilege in response to any request, please provide a written explanation to PPI explaining why the response date cannot be met and your best estimate of when the information can be provided. In the event that you claim a legal privilege, please produce a privilege log describing each document and the nature of the claimed privilege.

5. If a document is available in Word or Excel format (or inter-operable formats such as comma separated value, or rich text format), produce it in its native format, not as a PDF file.

6. The requests herein extend beyond the documents and information within GTL's possession to include documents and information within GTL's custody or control and may, therefore, require GTL or its attorneys to seek and obtain the specifically requested documents and information from other entities.

7. If a responsive document is available only in paper format, mail it to Ginger Jackson-Gleich, Prison Policy Initiative, 69 Garfield Ave, Floor 1, Easthampton, MA 01027. All other documents should be sent electronically to the following recipients:

Ginger Jackson-Gleich, gjacksongleich@prisonpolicy.org
Tiana Herring, therring@prisonpolicy.org
Stephen Raher, sraher@prisonpolicy.org

REQUESTS

REQUEST NO. 1: All contracts between GTL and any person that receives or processes payments from end-users on GTL's behalf. This request includes contracts with payment-card processors, acquiring banks, and money transmitters.

REQUEST NO. 2: In relation to each contract identified in response to Request No. 1, provide all documents showing any compensation collected within the last 24 months by the contractual counter-party, whether such compensation was paid directly by GTL or deducted from end-user funds.

REQUEST NO. 3: All contracts between GTL and any correctional facility at which GTL provides services to end-users.

REQUEST NO. 4: All proposals for the provision of goods or services that GTL has submitted to correctional facilities in the last 24 months.

REQUEST NO. 5: To the extent that any proposal identified in response to Request No. 4 was submitted in response to or in connection with a procurement solicitation (such as a request for proposals, invitation to negotiate, or request for information), provide a copy of the relevant solicitation document.

REQUEST NO. 6: Provide copies of your responses to any data requests propounded to you by other parties to this proceeding or by Public Utilities Commission staff. For purposes of this ongoing request, please produce responsive documents to PPI within 24 hours of producing them to the requesting party.

DATED: February 3, 2021.

PRISON POLICY INITIATIVE, INC.

/s/ Ginger Jackson-Gleich
Peter Wagner, MA Bar No. 662207
pwagner@prisonpolicy.org
Ginger Jackson-Gleich, CA Bar No. 324454
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CERTIFICATE OF SERVICE

I certify that on the date indicated below, I served a copy of:

**THE PRISON POLICY INITIATIVE, INC. FIRST DATA REQUEST TO
GLOBAL TEL*LINK CORP**

on the following parties, by the method(s) noted below:

Global Tel*Link Corp.
Steve Montanaro, Vice President
3120 Fairview Park Drive, Suite 300
Falls Church, VA 22042
steve.montanaro@gtl.net
VIA EMAIL AND FIRST-CLASS MAIL

Dated: February 3, 2021

/s/ Stephen Raher
Stephen Raher
Prison Policy Initiative, Inc.
P.O. Box 127
Northampton, MA 01060

CERTIFICATE OF SERVICE



Global Tel*Link Corporation
www.gtl.net

Corporate Headquarters
3120 Fairview Park Dr.
Suite 300
Falls Church, VA 22042

Operations Center
107 St. Francis Street
32nd Floor
Mobile, AL 36602

February 12, 2021

Via Electronic Mail

Peter Wagner
Ginger Jackson-Gleich
Prison Policy Initiative, Inc.
P.O. Box 127
Northampton, MA 01060
(413) 527-0845

**Re: The Prison Policy Initiative First Data Request to Global Tel*Link Corp.
Statement of Specific and General Objections of Global Tel*Link
Corporation (U 5680 C)**

Dear Mr. Wagner and Ms. Jackson-Gleich:

Global Tel*Link Corporation (“GTL”)¹ submits this Statement of Specific and General Objections (“Statement”) to The Prison Policy Initiative First Data Request to Global Tel*Link Corp. (“First Data Request”), issued on January 29, 2021, in California Public Utilities Commission (“CPUC”) Proceeding R.20-10-002. GTL reserves the right to amend, supplement, correct, or clarify this Statement if other or additional information is obtained.

¹ GTL submits this response on behalf of itself and its wholly owned subsidiaries that also provide incarcerated/detained calling services within the State of California: Telmate, LLC (“Telmate”), Public Communications Services, Inc. (“PCS”), and Value-Added Communications, Inc. (“VAC”). Unless otherwise stated herein, reference to “GTL” is intended to mean GTL, Telmate, PCS, and VAC.

SPECIFIC OBJECTIONS

1. All contracts between GTL and any person that receives or processes payments from end-users on GTL's behalf. This request includes contracts with payment-card processors, acquiring banks, and money transmitters.

In addition to the General Objections delineated below, which are incorporated herein by reference, GTL specifically objects to Data Request No. 1 on the basis of lack of relevance, lack of proportionality, undue burden, and overbreadth. Data Request No. 1 seeks information not reasonably calculated to lead to the discovery of admissible evidence.

Specifically, the reference to “any person” contemplates production of contracts with entities that do not serve end users outside of the State of California. Data Request No. 1 thereby facially seeks information immaterial to this proceeding, which is limited, pursuant to the CPUC's Assigned Commissioner's Scoping Memo and Ruling, dated January 12, 2021, to issues arising from the provision of inmate calling services within the State of California.

In addition, Data Request No. 1 seeks the production of documents that, per Cal. Gov. Code § 6254.15, constitute corporate financial records and corporate proprietary information including trade secrets and meets the criteria for protection of corporate trade secrets under Cal. Civil Code § 3426 *et seq.*, Cal. Gov. Code § 6276.44 and Cal. Evid. Code § 1060 *et seq.* Disclosure of these documents would afford GTL's competitors access to sensitive, proprietary, and non-public information with substantial economic value, resulting in considerable competitive and economic harm to GTL. Consequently, GTL objects to Data Request No. 1 on this basis unless and until a comprehensive protective order under California law is executed between and among the parties.

GTL is prepared to meet and confer on the foregoing issues.

2. In relation to each contract identified in response to Request No. 1, provide all documents showing any compensation collected within the last 24 months by the contractual counter-party, whether such compensation was paid directly by GTL or deducted from end-user funds.

In addition to the General Objections delineated below, which are incorporated herein by reference, GTL specifically objects to Data Request No. 2 as so broad and unlimited scope as to be an unwarranted annoyance, embarrassment, and oppressive. Compliance would constitute an undue burden and expense on GTL, and Data Request No. 2 is calculated to annoy and harass GTL. Data Request No. 2 seeks information not reasonably calculated to lead to the discovery of admissible evidence.

Specifically, the reference to “all documents” and “any compensation” contemplates a search of each and every document within GTL’s possession, custody, and control for each and every reference to or demonstration of the “compensation” referenced by Data Request No. 2, an undefined term that is virtually unlimited in scope. PPI fails to provide any justification for which each and every document referencing or demonstrating “compensation” is relevant to the discrete issues set forth by the CPUC’s Assigned Commissioner’s Scoping Memo and Ruling, dated January 12, 2021. Finally, Data Request No. 2 is unlimited in geographic scope and thereby facially seeks information immaterial to this proceeding, which is limited, pursuant to the CPUC’s Assigned Commissioner’s Scoping Memo and Ruling, dated January 12, 2021, to issues arising from the provision of inmate calling services within the State of California. .

In addition, Data Request No. 2 seeks the production of documents that, per Cal. Gov. Code § 6254.15, constitute corporate financial records and corporate proprietary information including trade secrets and meets the criteria for protection of corporate trade secrets under Cal. Civil Code § 3426 *et seq.*, Cal. Gov. Code § 6276.44 and Cal. Evid. Code § 1060 *et seq.* Disclosure of these documents would afford GTL’s competitors access to sensitive, proprietary,

and non-public information with substantial economic value, resulting in considerable competitive and economic harm to GTL. Consequently, GTL objects to Data Request No. 2 on this basis unless and until a comprehensive protective order under California law is executed between and among the parties.

GTL is prepared to meet and confer on the foregoing issues.

3. All contracts between GTL and any correctional facility at which GTL provides services to end-users.

In addition to the General Objections delineated below, which are incorporated herein by reference, GTL specifically objects to Data Request No. 3 on the basis of lack of relevance, lack of proportionality, undue burden, and overbreadth. Data Request No. 3 seeks information not reasonably calculated to lead to the discovery of admissible evidence.

Specifically, Data Request No. 3 seeks the production of “all contracts,” which contemplates the production of historical contracts between GTL and a “correctional facility,” as that term is defined by the First Data Request, that no longer reflect the rates and charges, terms and conditions of service, and/or the provision of products and services currently in effect. PPI fails to provide any justification for how such historical contracts are relevant to the present state of the inmate communications services industry within the State of California, as set forth by the CPUC’s Assigned Commissioner’s Scoping Memo and Ruling, dated January 12, 2021.

In addition, Data Request No. 3 seeks the production of documents that, per Cal. Gov. Code § 6254.15, constitute corporate financial records and corporate proprietary information including trade secrets and meets the criteria for protection of corporate trade secrets under Cal. Civil Code § 3426 *et seq.*, Cal. Gov. Code § 6276.44 and Cal. Evid. Code § 1060 *et seq.* Disclosure of these documents would afford GTL’s competitors access to sensitive, proprietary, and non-public information with substantial economic value, resulting in considerable competitive and economic harm to GTL. Consequently, GTL objects to Data Request No. 3 unless and until a comprehensive protective order under California law is executed between and among the parties.

GTL is prepared to meet and confer on the foregoing issues.

4. All proposals for the provision of goods or services that GTL has submitted to correctional facilities in the last 24 months.

In addition to the General Objections delineated below, which are incorporated herein by reference, GTL specifically objects to Data Request No. 4 on the basis of lack of relevance, lack of proportionality, undue burden, and overbreadth. Data Request No. 4 seeks information not reasonably calculated to lead to the discovery of admissible evidence.

Specifically, the reference to “goods and services” contemplates production of documents that are outside the scope of this proceeding, which is limited to those services, rates, charges, and fees associated with “inmate communications services,” as that term is defined by the CPUC’s Assigned Commissioner’s Scoping Memo and Ruling, dated January 12, 2021.

In addition, Data Request No. 4 seeks the production of documents that, per Cal. Gov. Code § 6254.15, constitute corporate financial records and corporate proprietary information including trade secrets and meets the criteria for protection of corporate trade secrets under Cal. Civil Code § 3426 *et seq.*, Cal. Gov. Code § 6276.44 and Cal. Evid. Code § 1060 *et seq.* Disclosure of these documents would afford GTL’s competitors access to sensitive, proprietary, and non-public information with substantial economic value, resulting in considerable competitive and economic harm to GTL. Consequently, GTL objects to Data Request No. 4 on this basis unless and until a comprehensive protective order under California law is executed between and among the parties.

GTL is prepared to meet and confer on the foregoing issues.

5. To the extent that any proposal identified in response to Request No. 4 was submitted in response to or in connection with a procurement solicitation (such as a request for proposals, invitation to negotiate, or request for information), provide a copy of the relevant solicitation document.

In addition to the General Objections delineated below, which are incorporated herein by reference, GTL specifically objects to Data Request No. 5 on the basis of lack of relevance, lack of proportionality, undue burden, and overbreadth. Data Request No. 5 seeks information not reasonably calculated to lead to the discovery of admissible evidence.

To the extent that the “procurement solicitations,” as referenced by Data Request No. 5, are publicly available, GTL specifically objects on the grounds that such documents are equally available to PPI.² To the extent that the “procurement solicitations,” as referenced by Data Request No. 5, are directed to GTL as a predicate to or a component of its specific negotiations with specific governing bodies, Data Request No. 5 seeks the production of documents that, per Cal. Gov. Code § 6254.15, constitute corporate financial records and corporate proprietary information including trade secrets and meets the criteria for protection of corporate trade secrets under Cal. Civil Code § 3426 *et seq.*, Cal. Gov. Code § 6276.44 and Cal. Evid. Code § 1060 *et seq.* Disclosure of these documents would afford GTL’s competitors access to sensitive, proprietary, and non-public information with substantial economic value, resulting in considerable competitive and economic harm to GTL. Consequently, GTL objects to Data Request No. 5 on this basis unless and until a comprehensive protective order under California law is executed between and among the parties.

GTL is prepared to meet and confer on the foregoing issues.

² *Alpine Mut. Water Co. v. Superior Court for Ventura Cty.*, 259 Cal. App. 2d 45, 54, 66 Cal. Rptr. 250, 255 (Ct. App. 1968) (there exists “no perceivable purpose consonant with the discovery laws that is served by compelling one party to search public records, compile the results and furnish them to his opponent”).

6. Provide copies of your responses to any data requests propounded to you by other parties to this proceeding or by Public Utilities Commission staff. For purposes of this ongoing request, please produce responsive documents to PPI within 24 hours of producing them to the requesting party.

In addition to the General Objections delineated below, which are incorporated herein by reference, GTL specifically objects to Data Request No. 6 on the basis of lack of relevance, lack of proportionality, undue burden, and overbreadth. Data Request No. 6 seeks information not reasonably calculated to lead to the discovery of admissible evidence.

Specifically, with respect to Data Request – 01, issued by the CPUC Public Advocates Office (“PAO”) on December 23, 2020, and Request No. R2010002 - Communication Division Data Request 1, issued by the CPUC on December 29, 2020, the majority of GTL’s discovery responses thereto have been filed under a pending confidentiality request pursuant to Cal. Pub. Util. Code § 583 and General Order No. 66-D (the “Confidential Information”). As set forth therein, the Confidential Information comprises, per Cal. Gov. Code § 6254.15, “corporate financial records” and “corporate proprietary information including trade secrets,” and, with respect to the latter category, meets the criteria for protection of corporate trade secrets under Cal. Civil Code § 3426.7, Cal. Gov. Code § 6276.44 and Cal. Evid. Code § 1060 *et seq.* Disclosure of the Confidential Information would afford GTL’s competitors access to sensitive, proprietary, and non-public information with substantial economic value, resulting in considerable competitive and economic harm to GTL. Separately, GTL notes that the majority of the Confidential Information submitted in response to PAO Data Request – 01 is itself subject to an existing protecting order established by the Federal Communications Commission in WC Docket No. 12-375, *Rates for Interstate Inmate Calling Services*, which prohibits disclosure of documents within its ambit to

entities that are not bound by it.³

Consequently, GTL objects to Data Request No. 6 unless and until a comprehensive protective order under California law is executed between and among the parties. GTL is prepared to meet and confer on this issue.

³ See *Rates for Interstate Inmate Calling Services*, 28 FCC Rcd 16954, ¶¶ 3, 5 (2013) (“By designating documents and information as Confidential under this Protective Order, a Submitting Party will be deemed to have submitted a request that the material not be made routinely available for public inspection under the Commission’s rules. . . . Any person seeking access to Stamped Confidential Documents and Confidential Information subject to this Protective Order shall sign and date the Acknowledgment agreeing to be bound by the terms and conditions of the Protective Order and file the Acknowledgment with the Bureau, on behalf of the Commission.”).

GENERAL OBJECTIONS

GTL makes the following general reservation of rights and asserts the following General Objections with respect to the First Data Request, which are incorporated into each of its Specific Objections above. None of the General Objections or Specific Objections is an admission as to the relevance, materiality, authenticity, or admissibility of any information provided herein.

1. GTL objects to the First Data Request to the extent that it seeks information that is: (i) not in GTL's possession, custody, or control; (ii) public, already in the FCC's possession, or available from other sources to which PPI has access; or (iii) otherwise available through more convenient, more efficient, less burdensome, or less expensive means. GTL further objects to the Request to the extent it requires the creation of documents not otherwise maintained in the ordinary course of business.

2. GTL objects to the First Data Request to the extent it purports to impose upon GTL any obligations beyond those set forth in the California Public Utilities Code, or any other applicable laws or regulations incumbent upon a CPUC certificated telecommunications service provider. GTL further objects to the First Data Request to the extent it seeks information on entities outside the scope of the CPUC's regulatory jurisdiction, which is limited, in pertinent part, to telephone corporations owning, controlling, operating, or managing any telephone line for compensation within California.⁴ GTL will, for purposes of the First Data Request, construe it consistently with those rules, other applicable laws, and applicable judicial orders.

3. Any agreement by GTL to produce documents in response to the First Data Request does not constitute an admission that responsive documents or data exist or that GTL will search all files maintained by any person. Rather, any such agreement means only that

⁴ See Cal. Const., art. XII, §§ 3; Cal. Pub. Util. Code § 234.

responsive data and documents will be produced if they exist, can be located based on a diligent inquiry and search, of reasonably accessible files and systems, and are not otherwise protected from disclosure.

4. GTL objects to the First Data Request to the extent that it purports to impose upon GTL the burden to search for or produce “all” documents or data in a specified category where a subset of such documents or data would be sufficient to provide the pertinent information.

5. GTL objects to the First Data Request to the extent that the data requested therein is vague, ambiguous, overbroad, unduly burdensome, lacking in particularity, seek the production of documents, data, or information that is not reasonably calculated to lead to the discovery of evidence material to this proceeding. GTL further objects to such request to the extent it fails to describe the documents, categories of documents, data, or categories of data sought with reasonable particularity, which would allow GTL to identify responsive documents or data, if any, without speculation or undue burden. GTL further objects to such request to the extent it purports to require preservation and/or production of data or documents that are not stored on active systems, but are stored on backup tapes or other media that are no longer part of normal business operations.

6. GTL objects to the production of any documents, data, or information that is protected from discovery by the attorney-client privilege, the attorney work-product doctrine, the joint-defense or common-interest doctrines, or any other applicable privilege, immunity, or discovery protection, or that are otherwise protected from disclosure under the applicable law, rules, and court orders, or are subject to confidentiality or nondisclosure agreements with third-parties. Nothing contained herein should be construed as a waiver of any privilege, protection, or immunity. The absence of a specific response and/or objection is neither intended, nor should

be interpreted, as an indication that GTL does not object to a specific data request on the basis of an applicable privilege, protection, or immunity. If any document, data, or information protected by privilege or immunity is inadvertently produced, GTL does not waive or intend to waive any privilege or immunity from discovery pertaining to such document, data, or information, nor shall production of such material constitute a waiver of GTL's rights to (i) seek the return of such material or (ii) object to the use of such material at any stage of this proceeding or in any other proceeding. GTL reserves the right to demand that the parties - and any party, person, or entity that has received documents from the parties - destroy or return any such privileged or protected documents.

7. GTL objects to the First Data Request to the extent that it seeks trade secrets or information that is: (i) confidential, proprietary, or commercially or competitively sensitive to GTL, its affiliates, its employees, or its clients, customers, or counterparties; (ii) subject to other privacy laws, protective orders, nondisclosure agreements, or other confidentiality undertakings; or (iii) otherwise prohibited from disclosure by law.

8. GTL objects to the First Data Request to the extent that the expense of the production sought outweighs its likely benefit, and to the extent that the First Data Request seeks discovery that is not proportional to the needs of this proceeding.

9. GTL objects to the First Data Request to the extent that it (i) implies the existence of facts or circumstances that do not or did not exist, or (ii) states or assumes legal or factual conclusions. By responding to the First Data Request, GTL does not admit any factual or legal premise in the First Data Request.

10. These General Objections are made without waiving, or intending to waive, but, on the contrary, expressly preserving: (a) all questions as to competence, relevance, materiality,

privilege, and admissibility as evidence for any purpose in any aspect of any litigation, action, proceeding and/or investigation; (b) the right to object on any ground to any other set of requests to produce disclosure involving or relating to the subject matter of the information sought by the First Data Request; and (c) the right at any time to revise or supplement these responses.

GLOBAL TEL*LINK CORPORATION

/s/ Steve Montanaro

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Dated: February 12, 2021

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

**Order Instituting Rulemaking to Consider
Regulating Telecommunications Services
Used by Incarcerated People**

Rulemaking 20-10-002

**[PROPOSED] ORDER TO COMPEL GLOBAL TEL*LINK
TO RESPOND TO DATA REQUESTS**

In accordance with its Rules of Practice and Procedure, the California Public Utilities Commission has considered the Motion of the Prison Policy Initiative to Compel Global Tel*Link to Respond to Data Requests, filed in the above-captioned proceeding on March 18, 2021. Good cause appearing therefor, it is hereby ORDERED as follows:

1. Prison Policy Initiative Inc.'s motion is GRANTED.
2. Global Tel*Link's objections or limitations in response to the data requests reprinted below are hereby overruled and GTL shall, within 3 business days of entry of this order, provide Prison Policy Initiative with all documents that are responsive to the following data requests (reprinted here from Prison Policy Initiative's First Data Request to Global Tel*Link):

REQUEST NO. 1: All contracts between GTL and any person that receives or processes payments from end-users on GTL's behalf. This request includes contracts with payment-card processors, acquiring banks, and money transmitters.

REQUEST NO. 2: In relation to each contract identified in response to Request No. 1, provide all documents showing any compensation collected within the last 24 months by the contractual counter-party, whether such compensation was paid directly by GTL or deducted from end-user funds.

* * *

REQUEST NO. 6: Provide copies of your responses to any data requests propounded to you by other parties to this proceeding or by Public Utilities Commission staff. For

purposes of this ongoing request, please produce responsive documents to PPI within 24 hours of producing them to the requesting party.

Dated: _____

Cathleen A. Fogel
Administrative Law Judge